

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julia Pagnamenta	Team: Squad #02	CCRB Case #: 202100584	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 01/21/2021 6:37 PM	Location of Incident: 26th Precinct Stationhouse	18 Mo. SOL 7/21/2022	Precinct: 26		
Date/Time CV Reported Thu, 01/21/2021 7:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/26/2021 11:16 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Coy	00380	938282	026 PCT
2. POM Timothy Jacquez	10861	968508	026 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Henry Bautista	01055	929693	026 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Timothy Jacquez	Discourtesy: Police Officer Timothy Jacquez spoke discourteously to § 87(2)(b)	
B . POM Daniel Coy	Abuse: Police Officer Daniel Coy interfered with § 87(2)(b) use of a recording device.	
C . POM Daniel Coy	Abuse: Police Officer Daniel Coy threatened to arrest § 87(2)(b)	

Case Summary

On January 21st, 2021, § 87(2)(b) filed this complaint by telephone with IAB (**Board Review 01**). It was received at the CCRB on January 26th, 2021. On May 18th, 2021, the case was closed as Complainant Unavailable. On July 20th, 2021, the case was reopened at the request of § 87(2)(b). The case was initially assigned to Inv. Kenneth Shelton and reassigned to Inv. Julia Pagnamenta on August 19, 2021.

At approximately 6:37 p.m., on January 21st, 2021, § 87(2)(b) went to the 26th Precinct stationhouse to inquire about a previous complaint he filed against officers. On the sidewalk in front of the stationhouse, as § 87(2)(b) interacted with Police Officer Timothy Jacquez of the 26th Precinct, Police Officer Jacquez told § 87(2)(b) he was wearing “bum ass” sneakers (**Allegation A: Discourtesy-Word**, § 87(2)(g)). § 87(2)(b) asked him, “And you live in Harlem?” after § 87(2)(b) told him that he made “a lot of money,” and allegedly made a disparaging comment about § 87(2)(b) residing in a shelter (**within Allegation A**).

As Police Officer Jacquez briefly entered the stationhouse, Police Officer Daniel Coy of the 26th Precinct called out to § 87(2)(b) who at that point was standing outside the stationhouse and recording with his phone, “Keep filming and you’re going to get arrested” (**Allegation B: Abuse of Authority: Interference with Recording**, § 87(2)(g)). (**Allegation C: Abuse of Authority: Threat of Arrest**, § 87(2)(g)). Police Officer Jacquez, Police Officer Coy, and Sergeant Henry Bautista of the 26th Precinct then exited the stationhouse and spoke to § 87(2)(b) about the previous complaint he had filed. § 87(2)(b) then walked away from the stationhouse.

BWC footage from the BWCs of Police Officer Jacquez, Police Officer Coy, and Sergeant Bautista are attached to IA #74 (**Board Review 02**) and summarized in IA#75 (**Board Review 03**). The video § 87(2)(b) recorded during the incident is attached to IA#46 (**Board Review 04**) and summarized in IA#58 (**Board Review 05**). The investigation obtained stationhouse footage from the incident date, but it does not capture § 87(2)(b) incident.

Findings and Recommendations

Allegation (A) Police Officer Timothy Jacquez spoke discourteously to § 87(2)(b)

On August 10th, 2021, § 87(2)(b) was interviewed by telephone (**Board Review 06**). Police Officer Coy was interviewed at the CCRB on January 24th, 2022 (**Board Review 07**). Police Officer Jacquez was interviewed at the CCRB on March 30th, 2022 (**Board Review 08**).

§ 87(2)(b) stated that he went to the stationhouse that day to inquire about a previous complaint he made against officers and that Police Officer Jacquez approached him outside the stationhouse and spoke to him. At some point in their conversation, Police Officer Jacquez said to § 87(2)(b) “Look at those bum ass sneakers you got on,” and mentioned that § 87(2)(b) resided in a shelter. § 87(2)(b) told Police Officer Jacquez he was a “piece of shit” for making fun of him for living in a shelter.

Police Officer Jacquez stated that during their initial interaction, § 87(2)(b) told him he was wearing “Jordan” sneakers. Police Officer Jacquez told § 87(2)(b) that he was not wearing Jordans, but “Team Jordan” sneakers, which the officer described in his statement to the CCRB as “a different style of Jordans” that are not “as popular” as the numbered “Jordan” sneakers. When the Investigator asked Police Officer Jacquez if he ever used the term “bum ass” to describe § 87(2)(b) he replied “possibly.” When the Investigator asked him to elaborate, Police

Officer Jacquez replied, “Those are bum ass sneakers. Like those aren’t like as nice as the numbers” and stated that he and § 87(2)(b) had been “joking with each other” and that § 87(2)(b) had then made “fun” of Police Officer Jacquez’s work boots.

Police Officer Jacquez further stated that after § 87(2)(b) told him he made “a lot of money,” he replied, “And you live in Harlem?” In his CCRB statement, Police Officer Jacquez explained that he made this comment because if he himself made “a lot of money,” he would not “live in the city.” After Police Officer Jacquez made that comment, § 87(2)(b) pointed in the direction of the homeless shelter and asked him if he was “making fun” of where he lived. Police Officer Jacquez stated that at the time of this exchange, he had not known that § 87(2)(b) lived in the homeless shelter down the street from the stationhouse, and this fact “clicked in [his] head” only after § 87(2)(b) responded to his comment. (Police Officer Jacquez clarified that he did not make any reference to the homeless shelter while speaking to § 87(2)(b). Police Officer Jacquez believed § 87(2)(b) “felt offended” by the comments he made during their interaction.

None of the footage obtained for this case captures this portion of the interaction between § 87(2)(b) and Police Officer Jacquez. Police Officer Jacquez’s BWC footage (**Board Review 02**) begins as he and § 87(2)(b) are verbally interacting outside the stationhouse. However, because the audio does not activate until the 1:00 mark, it does not capture this conversation. The audio begins as § 87(2)(b) calls out, “What you are arresting me for being in public?” as Police Officer Jacquez exits the stationhouse after briefly entering and interacting with Police Officer Coy in the vestibule. At 2:53 into Police Officer Jacquez’s BWC, after § 87(2)(b) finishes speaking with the officers, he begins shouting as he walks away from the stationhouse entrance, saying, “I live right down the street at the shelter. You want to violate my rights go ahead.”

§ 87(2)(b) video of the incident (**Board Review 04**) is consistent with the footage of the three officers’ BWCs and does not show his initial interaction with Police Officer Jacquez outside the stationhouse. The video begins at approximately the same moment at which the audio in Police Officer Jacquez’s BWC footage is activated.

According to Patrol Guide Procedure 200-02, the NYPD pledges to “value human life, respect the dignity of each individual and render our services with courtesy and respect” (**Board Review 09**).

According to DCT Case No. 2015-15012, officers are to behave professionally and respectfully towards members of the public and avoid the use of discourteous language; however, officers’ use of profanities during stressful street encounters do not constitute misconduct (**Board Review 10**).

By his own admission, Police Officer Jacquez referred to § 87(2)(b) as “bum ass,” and then made a comment about the neighborhood § 87(2)(b) lived in that he believed “offended” him. Given that Police Officer Jacquez described his interaction with § 87(2)(b) outside the stationhouse as a “conversation,” and described himself as being “lax” and standing there “with [his] coffee,” this incident did not constitute a “stressful street encounter.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Police Officer Daniel Coy interfered with § 87(2)(b) use of a recording device.

Allegation (C) Police Officer Daniel Coy threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that after his interaction with Police Officer Jacquez, Police Officer Coy

exited the stationhouse and told him, “Keep filming and you’re going to get arrested.”

Police Officer Coy stated he first noticed § 87(2)(b) “outside” the stationhouse entrance door, as he “appeared” to be “trying” to “come in” while recording with his phone “directed directly inside the precinct.” As Police Officer Coy exited the stationhouse to see if Police Officer Jacquez needed any assistance, he informed § 87(2)(b) that he could not record inside the stationhouse and would be arrested. In his statement, Police Officer Coy explained that § 87(2)(b) could have been arrested for trespassing if he had entered the stationhouse while recording and that he had informed him of this fact since it “seemed” like § 87(2)(b) was “trying” to enter while recording. Police Officer Coy clarified that § 87(2)(b) had not entered the stationhouse at any point during their interaction, as Police Officer Coy had been standing at the door “blocking his way.” § 87(2)(b) never actually attempted to enter the stationhouse and never committed trespassing in Police Officer Coy’s presence. Police Officer Coy’s understanding was that civilians were “allowed to record outside” the stationhouse but they could not “come inside and record.”

At the 15 second mark in § 87(2)(b) video recording (**Board Review 04**), Police Officer Coy calls out to § 87(2)(b) from inside the stationhouse vestibule, as § 87(2)(b) is standing outside filming in the direction of the stationhouse doors, “Keep filming and you’re going to get arrested.” § 87(2)(b) replies, “Keep filming? What charge is that? I’m on public property. What charge is that? If it’s you come into the building you can’t record. You can’t say nothing about public property.” Police Officer Jacquez, Police Officer Coy, and Sergeant Bautista then exit the stationhouse, and speak to § 87(2)(b) on the sidewalk in front of the stationhouse. Police Officer Coy tells § 87(2)(b) that he is “filming,” and § 87(2)(b) replies that the sign in the stationhouse states that filming is prohibited inside the building, but that he is “in public.” At 00:46, as Police Officer Coy stands by the entrance door, he tells § 87(2)(b) “You’re filming inside. You’ve got to leave.” § 87(2)(b) repeats several more times that he’s “in public.” Sergeant Bautista then asks § 87(2)(b) how they can “help” him. At no point does the video show § 87(2)(b) entering or trying to enter the stationhouse.

The three BWC videos (**Board Review 02**) received for this incident are consistent with § 87(2)(b) video, and at no point do they show § 87(2)(b) entering or trying to enter the stationhouse while recording on his phone.

NYPD Patrol Guide Procedure 203-29 states that “Members of the public are not allowed to photograph and/or record police activity within Department facilities. Members of the service may order any member of the public who is photographing or recording within Department facilities to stop such activity. If such person refuses to stop, they then should be ordered to leave the premises. If such person refuses to leave the premises, members of the service may take proper enforcement action under the trespass statutes.” However, the Patrol Guide also states that “Individuals have a right to lawfully observe and/or record police activity including, but not limited to detentions, searches, arrests or uses of force. This right extends to individuals in public places, such as streets, sidewalks, and parks, as well as private property in which the individual has a legal right to be present, such as buildings, lobbies, workplaces or an individual’s own property” and that “Absent additional actions constituting a violation of law, an individual CAN NOT be arrested for: (1) Taking photographs, videotaping, or making a digital recording” (**Board Review 11**).

Per NYS Penal Law Section 140.05, “a person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises” (**Board Review 12**).

§ 87(2)(g)
the fact that at the

in his presence, § 87(2)(g)

Civilian and Officer CCRB Histories

- [illegible]

Mediation, Civil and Criminal Histories

- Mediation was not offered due to the Agency moratorium on sending cases to Mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- A Notice of Claim search request was sent to the New York City Office of the Comptroller on March 30th, 2022. Any responsive Notice of Claim will be added to the case file upon receipt (**Board Review 15**).

Squad No.: 2

Investigator:	<u>Julia Pagnamenta</u>	<u>Inv. Pagnamenta</u>	<u>04/05/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Alexander Opoku-Agyemang</u>	<u>IM Opoku-Agyemang</u>	<u>4/5/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date